



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 20237127

Date: MAR. 28, 2022

Appeal of Nebraska Service Center Decision

Form N-565, Application to Replace a Certificate of Citizenship or Naturalization

The Applicant, a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization with a different date of birth. *See* 8 C.F.R. § 338.5 (governing the correction of naturalization certificates).

The Director of the Nebraska Service Center denied the Form N-565, Application for Replacement Naturalization/Citizenship Document (Form I-565), concluding that the [redacted] 1957 date of birth printed on the Applicant's original certificate was the same date of birth she provided at the time of naturalization, and she did not establish that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in preparing the certificate.

On appeal, the Applicant does not contest that the [redacted] 1957 date of birth on her Certificate of Naturalization is the date of birth she represented and attested to in naturalization proceedings, and that USCIS did not make a clerical error. Rather, she admits that she wrote the wrong date of birth on her naturalization application. She further admits that "[she] should have corrected the birth date on all of her documents before applying for the citizenship certificate." The Applicant submits an affidavit from her son explaining the date of birth discrepancy and an amended Certified Copy of Entry in Register of Births indicating that she was born in [redacted] 1965. In his affidavit, the Applicant's son explains that "[the Applicant's] true date of birth was discovered recently when a search through the documents of her late uncle with whom she lived in infancy revealed same [*sic*]." He also explains "that the said date was submitted to the Registry of Births and Deaths in [redacted] Ghana and the said registry confirmed the date of [redacted] 1965, as the true and correct date of [b]irth of [the Applicant] by issuing a new birth certificate to that effect." The Applicant requests a new Certificate of Naturalization to eliminate the discrepancy so that she can apply for a U.S. passport to visit her children in Ghana.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 103.2(b)(1); *Matter of Chawathe*, 29 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

Department of Homeland Security regulations provide that whenever a Certificate of Naturalization has been delivered which does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate, an applicant may apply for issuance of a corrected certificate, without fee, in accordance with the form instructions. 8 C.F.R. § 338.5(a). The correction will not be deemed justified, however, where the naturalized person later alleges that the date of birth which he or she stated to be his or her correct date of birth at the time of naturalization was not in fact his or her true date of birth. 8 C.F.R. § 338.5(e).

The record reflects that the Applicant naturalized as a U.S. citizen in 2020 and was issued a Certificate of Naturalization reflecting that she was born in [REDACTED] 1957. A review of the record shows that the Applicant represented on her Form N-400, Application for Naturalization (Form N-400), that she was born in [REDACTED] 1957, consistent with the date of birth listed in her Ghanian Certified Copy of Entry in Register of Births. The Applicant confirmed during her naturalization interview that she was born in [REDACTED] 1957, as indicated by the interviewing officer's check marks next to questions regarding the Applicant's identity including her date of birth on the form. Furthermore, the Applicant signed the Form N-400 at the conclusion of the interview affirming that all information therein, including her date of birth, was true and correct. Lastly, the record contains other immigration forms the Applicant filed prior to naturalizing, which include a Form DS-230, Application for Immigrant Visa and Alien Registration, and accompanying biographic information form on which she similarly represented that she was born in [REDACTED] 1957.

We acknowledge the Applicant's explanation that she made a mistake by writing the incorrect date of birth on her naturalization application and that she should have corrected the date on all of her documents prior to applying for naturalization. We further acknowledge the affidavit from her son explaining the belated discovery of the Applicant's true date of birth. However, in adjudication of the Applicant's request for a replacement certificate, we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction only when: (1) the date of birth printed on the original certificate does not conform to the information on the naturalization application, or (2) USCIS committed a clerical error in preparing the certificate. 8 C.F.R. § 338.5(e). Here, neither the Applicant nor her son is alleging that the date printed on the Applicant's naturalization certificate was different than the one the Applicant listed on her naturalization application or that USCIS printed the incorrect date of birth on her naturalization certificate. Because the Applicant has not demonstrated that either of these two situations occurred in her case, we cannot change the date of birth on her Certificate of Naturalization. Although we recognize the hardship to the Applicant that this result may cause, we lack the authority to waive the requirements of the regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (stating that immigration regulations carry "the force and effect of law"). The Applicant's claim that the [REDACTED] 1957 date of birth she attested to as true and correct in naturalization proceedings was in fact incorrect is not considered a justifiable basis for a date of birth change and issuance of a new certificate.

Consequently, her Form N-565 will remain denied.

ORDER: The appeal is dismissed.